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6 **IN THE UNITED STATES DISTRICT COURT**
7 **FOR THE DISTRICT OF ARIZONA**
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9 Martin J Walsh,

10 Plaintiff,

11 v.

12 VH Harvesting LLC, et al.,

13 Defendants.
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No. CV-22-01805-PHX-DJH

CONSENT JUDGMENT

15 Pending before the Court is the Stipulation Regarding Consent Judgment filed
16 jointly by Plaintiff Martin J. Walsh, United States Secretary for the Department of Labor
17 (“Secretary of Labor”) and Defendant T & K Feeds, Inc., an Arizona corporation (“T &
18 K”) (Doc. 27). The Secretary of Labor and T & K agree to the entry of this Order to resolve
19 all matters in dispute in this action between them.

20 Accordingly,

21 **IT IS ORDERED** that the Court grants the parties’ Stipulation Regarding Consent
22 Judgment (Doc. 27) and adopts their stipulated settlement terms. (Doc. 27-1).

23 **IT IS FURTHER ORDERED** as follows:

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FINDINGS

1. Defendant T & K agrees that the Court has jurisdiction over the parties and the subject matter of this civil action, and that venue lies in the United States District Court of Arizona.

2. The Secretary of Labor filed a Complaint (Doc. 1) alleging Defendants VH Harvesting, LLC, Preston Van Hofwegen, and T & K (collectively “Defendants”) violated the H-2A Program under Section 218 of the Immigration and Nationality Act (“INA”)¹ as amended by the Immigration and Reform Control Act of 1986 (“IRCA”) and their Regulations at 20 C.F.R. Part 655 and 29 C.F.R. Part 501 (“H-2A Implementing Regulations”). Defendant T & K has appeared in this action.

3. Defendant T & K has retained counsel and filed an answer with affirmative defenses. (Doc. 20).

4. On October 20, 2022, the Secretary of Labor applied for a Temporary Restraining Order (“TRO”) and Preliminary Injunction (Doc. 2) seeking to enjoin Defendants from violating its obligations under the H-2A program.

5. On October 25, 2022, the Secretary of Labor and T & K stipulated to the entry of a preliminary injunction against T & K (Doc. 14), which the Court granted (Doc. 17).

6. Defendant T & K agrees to resolve all allegations against them in the Complaint.

7. Defendant T & K agrees to the entry of this Consent Judgment without contest.

8. Defendant T & K acknowledges that Defendant T & K and any individual, agent, or entity acting on their behalf or at their direction have been given, and in the future will be given notice of and an understanding of the provisions of this Consent Judgment.

ORDER

I. PERMANENT INJUNCTION

IT IS FURTHER ORDERED that pursuant to 8 U.S.C. § 1188(g)(2) and 29 C.F.R. §§ 501.16(b) & (c) that Defendant T & K and their officers, agents, servants, employees, successors and all persons in active concert or participation with them are

¹ All references made herein to the INA will be to its Section 218, 8 U.S.C. § 1188.

1 permanently enjoined and restrained from violating any provisions of the INA and the H-
 2 2A Implementing Regulations, including but not limited to 20 C.F.R. § 655.122(h)(4); 29
 3 C.F.R. §§ 500.105, 500.120-.128; and 29 C.F.R. § 1910.142.

4 **II. MONETARY JUDGMENT**

5 **IT IS FURTHER ORDERED** that in consideration of this Consent Judgment, to
 6 resolve this case, and in restitution and remediation, judgement is entered in favor of the
 7 Secretary of Labor and against Defendant T & K for the total amount of \$32,411.08, which
 8 is comprised of \$22,411.08 in back wages and \$10,000.00 in civil money penalties.

9 1. Defendant T & K shall satisfy the monetary terms of this judgment upon paying
 10 \$32,411.08, which represents the total sum of the back wages and civil money penalties
 11 assessed and finally determined or ordered by the Secretary of Labor for this matter
 12 pursuant to authority granted in 29 C.F.R. § 501.16(a)(1);

13 2. Defendant T & K shall make any payments required in this Consent Judgment as
 14 follows:

15 a. On or before November 18, 2022, for workers number 1-9 on the attached
 16 Exhibit A, by preparing a check in the amount of \$22,411.08 payable to co-
 17 defendant VH Harvesting, LLC and delivering it to VH Harvesting, LLC for
 18 distribution to workers number 1-9.²

19 b. All payments of Civil Money Penalties shall be made by December 19, 2022,
 20 using the “WHD Civil Money Penalty Payment Form – Western Region” at
 21 <https://www.pay.gov/public/form/start/77743734>. The payment shall
 22 reference Case Number 1972630.

23 3. Each party shall bear all fees, costs, and other expenses incurred by such party in
 24 connection with any stage of this proceeding, including, but not limited to, any costs
 25 referenced in the Equal Access to Justice Act.

26 **III. ENFORCEMENT**

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 28 ² The distribution of these amounts is governed by the Consent Judgment as to Defendants
 VH Harvesting, LLC and Preston Van Hofwegen filed concurrently herewith.

1 **IT IS FURTHER ORDERED** that the Clerk of Court shall terminate this action
2 and the Court shall retain jurisdiction of this action for purposes of enforcing compliance
3 with the terms of this Consent Judgment.

4 Dated this 28th day of November, 2022.


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8 Honorable Diane J. Humetewa
 United States District Judge
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Exhibit A

	First Name	Last Name	Start Period	End Period	Back Wages VH	Back Wages T & K	Total Back Wages Due VH and T & K	T & K Payments 11/18/2022	VH Payments 11/18/2022	Total Payments 11/18/2022	VH Additional Payments Due by 12/19/2022
1	Jose Alfredo	Vargas Magana	3/4/2022	12/1/2022	\$5,256.00	\$4,694.93	\$9,950.93	\$4,694.93		\$4,694.93	\$5,256.00
2	Gerardo Jaco	Zepeda Zepeda	3/4/2022	12/1/2022	\$9,722.24	\$4,634.35	\$14,356.59	\$4,634.35		\$4,634.35	\$9,722.24
3	Jose Domingo	Ponce Topete	3/4/2022	12/1/2022	\$18,572.08	\$405.90	\$18,977.98	\$405.90	\$ 2,765.11	\$3,171.01	\$15,806.97
4	Juan Manuel	Padilla Olivera	3/4/2022	12/1/2022	\$15,429.84	\$1,613.89	\$17,043.73	\$1,613.89	\$ 1,557.11	\$3,171.00	\$13,872.73
5	Juan Diego	Ramirez Penaloz	3/4/2022	12/1/2022	\$16,404.59	\$327.12	\$16,731.71	\$327.12	\$ 2,843.88	\$3,171.00	\$13,560.71
6	Juan Uvaldo	Lopez Landin	3/4/2022	12/1/2022	\$21,091.64	\$337.12	\$21,428.76	\$337.12	\$ 2,833.88	\$3,171.00	\$18,257.76
7	Miguel Gerar	Cortes Fregozo	3/4/2022	12/1/2022	\$6,843.08	\$3,991.33	\$10,834.41	\$3,991.33	\$ 6,843.08	\$10,834.41	\$0.00
8	Antonio	Irai Chavez Galve	3/4/2022	12/1/2022	\$9,918.16	\$4,159.29	\$14,077.45	\$4,159.29		\$4,159.29	\$9,918.16
9	Alan Arturo	Bueno Cardenas	3/4/2022	8/14/2022	\$5,658.64	\$2,247.15	\$7,905.79	\$2,247.15 to VH			\$7,905.79
10	Armando	Barriga Gonzalez	6/1/2022	8/4/2022	\$3,374.82		\$3,374.82				\$3,374.82
11	Carlos	Salas Remis	3/4/2022	5/18/2022	\$3,038.96		\$3,038.96				\$3,038.96
12	Dora	Galvez Alcaraz	3/4/2022	10/16/2022	\$7,681.20		\$7,681.20				\$7,681.20
13	Jairo Ivan	Barriga Rivera	6/1/2022	8/4/2022	\$4,129.74		\$4,129.74				\$4,129.74
14	Jesus	Ronquillo Salas	3/4/2022	5/18/2022	\$4,282.91		\$4,282.91				\$4,282.91
15	Jose Trinidad	Velasco Villa	3/4/2022	12/1/2022	\$20,226.47		\$20,226.47				\$20,226.47
16	Mario	Alvarado Navarr	3/4/2022	4/16/2022	\$3,820.32		\$3,820.32				\$3,820.32
17	Williams	Contreras Lopez	3/4/2022	4/16/2022	\$3,820.32		\$3,820.32				\$3,820.32
TOTAL					\$159,271.01	\$22,411.08	\$181,682.09	\$22,411.08	\$16,843.06	\$37,006.99	\$144,675.10